

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Allan R. Griebenow  
Serial No. 09/469,644  
Filing Date: December 22, 1999  
Group Art Unit: 2613  
Examiner: Gims S. Philippe  
Title: Method and System for Providing Integrated Remote Monitoring Services

**Mail Stop - AF**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

<p>Certificate of Mailing by Express Mail No. EV 733644550 US I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" under 37.C.F.R. 1.10 on the date shown below, and addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.</p> <p>Name: <u>Willie Jiles</u> Willie Jiles</p> <p>Date: December 19, 2005</p>
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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

The following Pre-Appeal Brief Request for Review ("Request") is being filed in accordance with the provisions set forth in the Official Gazette Notice of July 12, 2005 ("OG Notice"). Pursuant to the OG Notice, this Request is being filed concurrently with a Notice of Appeal. The Applicant respectfully requests reconsideration of the Application in light of the remarks set forth below.

**REMARKS**

Applicant contends that the rejection of Claims 1-11 and 13-24 on prior art grounds contain clear legal and factual deficiencies, as described below. In a Final Office Action dated September 19, 2005, Claims 1-11 and 13-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,271,752 to *Vaios* in view of U.S. Patent No. 6,028,626 to *Aviv*, and further in view of U.S. Patent Application No. 5,629,981 to *Nerlikar*. Applicant requests a finding that these rejections are improper and allowance of these claims.

With respect to Claim 1, a *prima facie* case of obviousness cannot be maintained against Claim 1 because neither *Vaios*, *Aviv*, nor *Nerlikar* provides a suggestion or motivation to combine the references. In the present case, the Examiner is improperly using the Applicant's disclosure as a blueprint for piecing together elements of *Nerlikar* with those of *Vaios*. *Nerlikar* relates to a document access system that uses RFID badges worn by users to control the users' access to the documents. The fact that both systems use RFID tags does not alone provide a suggestion to combine any aspects of the two systems. The Examiner states, using the benefit of hindsight, that it would be useful to provide "an audit trail of each user defined transaction as taught by *Nerlikar*" in the remote surveillance system disclosed in *Vaios*. However, the Examiner has not explained how such an audit trail would be used in the system of *Vaios*. For example, what are the "user defined transactions" in the *Vaios* system that would be audited? Furthermore, even if some use of an audit trail could be identified, there is simply no suggestion to use such an audit trail (or otherwise to process RFID data to generate a report for the subscriber, as recited in Claim 1) in the system of *Vaios*. *Nerlikar* only suggests that an audit trail is useful in its document access system – there is no suggestion that an audit trail could be used in the remote surveillance system disclosed in *Vaios*. Without such a suggestion in the references or in the knowledge of persons skilled in the art, the combination cannot be made. For at least these reasons, Applicant respectfully requests reconsideration and allowance of Claim 1, as well as the claims which depend from Claim 1.

Furthermore, in addition to being allowable due to its dependence on Claim 1, Claim 8 also recites additional limitations not disclosed in *Vaios*, *Aviv*, or *Nerlikar*. For example, Claim 8 recites "initiating a polling event in response to a specified event, the polling event

operable to use the RFID system at the facility to poll an area of the facility to determine an inventory of tagged items within the area.” The Examiner states that this limitation is disclosed in *Aviv* at Col. 9, lines 25-37 and 60-64 and at Col. 8, lines 45-51. Applicant fails to see how any of these passages relate at all to this limitation. For at least this additional reason, Applicant respectfully requests reconsideration and allowance of Claim 8.

Moreover, a *prima facie* case of obviousness cannot be maintained against independent Claims 15 and 20 because *Vaios*, *Aviv*, and *Nerlikar*, whether considered singly, in combination with one another, or in combination with information generally available to those of ordinary skill in the art at the time of the invention fail to disclose all of the elements of these claims.

For example, independent Claim 15 recites, “eliciting a radio response from a radio frequency identification (RFID) tag at an access door of a secure area,” “determining whether access by a wearer of the RFID tag to the secure area is authorized based on the radio response” and “controlling access to the door to provide access to the secure area by the wearer only if access by the wearer is authorized.” The Final Office Action does not address any of these limitations (and neither did the previous Office Action). Regardless of Applicant’s continued requests that the Examiner address this claim, the only time the Examiner addressed these limitations was in the “Response to Arguments” section of the Office Action mailed on September 20, 2004. Applicant addressed the Examiner’s comments in the Response filed with the Request for Continued Examination in this case. To reiterate, the Examiner stated the following in regards to Claim 15 in the Office Action mailed on September 20, 2004: “[T]he examiner reminds the applicant that the RF-ID interrogation steps are present in *Aviv* col. 9, lines 60-67 and in col. 10, lines 1-12. The applicant is reminded that the result of the interrogation in *Aviv* will give access to the authorized individual as is required for anyone accessing the remote surveillance system disclosed in *Vaios* (See *Vaios* col. 4, lines 5-14 and lines 61-65).” However, neither *Vaios*, *Aviv*, nor *Nerlikar* disclose controlling access to anything, much less a door of a secure area, based on a radio response from an RFID tag. Furthermore, although *Vaios* may disclose providing remote *computer* access to the *security surveillance system* disclosed in that reference, it does not disclose controlling *physical* access by a wearer of an RFID tag to a *door of a secure*

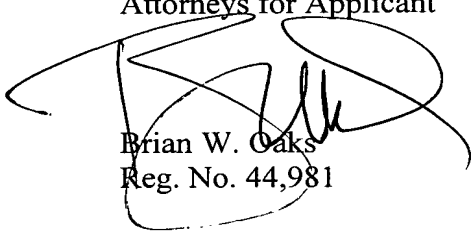
*area*. Furthermore, there is simply no suggestion to combine the use of RFID tags disclosed in *Aviv* to control access to anything, much less a door of a secure area.

The Final Office Action only briefly addressed the limitations of independent Claim 20 (which the Examiner had previously failed to address at all, despite repeated requests from Applicant). Independent Claim 20 recites, “determining whether the RFID action corresponds to a pre-defined alert condition.” and “obtaining a video image associated with the RFID action *only* if the RFID action corresponds to a pre-defined alert condition.” In the Final Office Action, the Examiner still fails to address the actual limitations of this claim. The Examiner argues about pre-defined conditions that a subscriber must fulfill *to be granted access*. Applicant fails to see how the activity described by the Examiner is inherent or non-obvious, and more importantly, fails to see how this has anything to do with the limitations of Claim 20. Furthermore, the Examiner provides a citation to *Aviv* for a supposed disclosure of granting access. Again, Applicant fails to see what this has to do with the limitations of Claim 20 (or how this citation discloses granting access). To the extent the Examiner meant to refer to Claim 15, Applicant submits that the cited passages also do not disclose, teach or suggest the limitations of Claim 15. In either case, the Examiner has still failed to address each and every limitation of Claims 15 and 20 despite repeated requests from the Applicant for an adequate evaluation of these claims. Accordingly, Applicant respectfully requests reconsideration and allowance of Claims 15 and 20, as well as those claims that depend from these claims.

**CONCLUSION**

As the rejection of Claims 1-11 and 13-24 contains clear deficiencies, Applicant respectfully requests a finding of allowance of Claims 1-11 and 13-24. If the PTO deems that an interview is appropriate, Applicant would appreciate the opportunity for such an interview. To the extent necessary, the Commissioner is hereby authorized to charge any required fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

BAKER BOTTS L.L.P.  
Attorneys for Applicant



Brian W. Oaks  
Reg. No. 44,981

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**Correspondence Address:**

Customer Number: **05073**